

EXHIBIT C

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF DELAWARE

THOMAS A. EAMES, on behalf of
themselves and all others : CIVIL ACTION
similarly situated; ROBERTA L. :
EAMES, on behalf of themselves :
and all others similarly :
situated; TAMMY EAMES, on behalf :
of themselves and all others :
similarly situated; :

Plaintiffs, :

v :

NATIONWIDE MUTUAL INSURANCE :
COMPANY, :

Defendant. :

NO. 04-1324 (KAJ)

Wilmington, Delaware
Tuesday, March 1, 2005 at 2:45 p.m.
TELEPHONE CONFERENCE

BEFORE: HONORABLE KENT A. JORDAN, U.S.D.C.J.

APPEARANCES:

MURPHY, SPADARO & LANDON
BY: JOHN S. SPADARO, ESQ.

Counsel for Plaintiffs

SWARTZ CAMPBELL, LLC
BY: CURTIS P. CHEYNEY, ESQ.
(Philadelphia, Pennsylvania)

Counsel for Defendant

Brian P. Gaffigan
Registered Merit Reporter

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P R O C E E D I N G S

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(REPORTER'S NOTE: The following telephone conference was held in chambers beginning at 2:45 p.m.)

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THE COURT: This is Judge Jordan. Who do I have on the line?

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MR. CHEYNEY: Good afternoon. Curt Cheyney for the defendant.

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MR. SPADARO: Good afternoon, Your Honor. John Spadaro for the Eames plaintiffs.

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THE COURT: All right. We had a little bit of a challenge getting together today. Thanks for everybody hanging in until we actually got on the call at the same time.

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I have the form of scheduling order in front of me that was sent over under cover of Mr. Spadaro's February 25th letter. Let's roll through that together.

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The very first paragraph, I understand there is some dispute about with what the plaintiffs wanting the Rule 26(a)(1) five-day time limit to apply and the defendant asking to have approximately, what, two months to make initial disclosures.

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MR. CHEYNEY: No, Your Honor. If I could speak

1 Nationwide insurance agents around the state with policy
2 documents and declarations pages which are part of the
3 contract that represents to policyholders that they have
4 "full" limits of liability for PIP coverage. The policy
5 documents that are customarily provided by Nationwide itself
6 as opposed to the ones that their agents in Delaware are
7 providing, they also beg the question to say things like "see
8 policy." So essentially the Nationwide paper points you to
9 the agent's paper.

10 Under Rule 34, we think that the Court would find
11 if we were to litigate the issue that the documents in the
12 possession of the insurance agents who are Nationwide's
13 agents are Nationwide's documents for the asking. They are
14 in Nationwide's possession, custody or control. And what
15 they should have been doing these past eight months until
16 they decided they would remove the case to District Court
17 is rounding them up for us so we could have from Nationwide
18 and not from 10 or 20 or 30 or 50 third-party subpoenas in
19 Delaware but from Nationwide a production of the declarations
20 pages that the agents, their agents are giving to consumers
21 in Delaware where the PIP limits are supposed to be
22 described.

23 THE COURT: Okay.

24 MR. CHEYNEY: Your Honor, I can file our initial
25 disclosures in five days from today. But I just want to say

1 one thing. Our Agents, capital A Agents are independent
2 contractors with separate contracts. They are not our
3 agents.

4 THE COURT: Yes. I'm not commenting, making any
5 ruling, by implication or otherwise, about anything that was
6 just laid out by plaintiffs' counsel. I'm just saying this:
7 Do your initial disclosures within five days.

8 MR. CHEYNEY: I'll do it, Your Honor.

9 MR. SPADARO: Thank you, Your Honor.

10 THE COURT: That's paragraph one.

11 Paragraph two, the March 21, 2005 deadline that
12 you folks agreed on in paragraph two is okay with me.

13 Paragraph three, we've got another dispute. The
14 way it's framed in the copy that was sent to me is each side
15 is limited to a total of seven hours of taking testimony of
16 deposition upon oral examination.

17 MR. SPADARO: Your Honor, John Spadaro again.

18 This is the first time I had a case before Your
19 Honor and you know I fully admit I'm in the Superior Court
20 a lot more than the District Court. I understood in the
21 District Court in some cases, a limitation on the number of
22 hours for deposition was being required. I had not under-
23 stood I could have gotten this wrong. I guess both sides
24 might have gotten it wrong if it is wrong and I checked with
25 other lawyers in the office and they thought I understood it